

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Thomas C. Holman  
Bankruptcy Judge  
Sacramento, California

October 1, 2013 at 9:31 A.M.

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1.     [13-29606](#)-B-7     MARIA AVINA AND GUILLERMO     MOTION FOR RELIEF FROM  
          JHW-2            AVINA-SEGURA            AUTOMATIC STAY  
  8-20-13 [[18](#)]  
  
          TD AUTO FINANCE, LLC VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part and dismissed as moot in part. Movant's request for relief from the automatic stay is dismissed as moot. Movant's request for an order confirming that no automatic stay is in effect in this case is granted pursuant to 11 U.S.C. § 362(c)(4)(A)(ii). No automatic stay went into effect upon the filing of the instant bankruptcy case pursuant to 11 U.S.C. § 362(c)(4)(A)(i), and no request for an order that the stay take effect in the case was made within the time allowed by 11 U.S.C. § 362(c)(4)(B). Except as so ordered, the motion is denied.

The debtors have had two bankruptcy cases pending and dismissed within the past year. The first case, case no. 12-39652, was filed under Chapter 13 on November 7, 2012. The first case was dismissed on January 9, 2013 for ineligibility (debtors received credit counseling two weeks after the date of the petition in violation of § 362(h)). The second case, case no. 13-21558, was filed under Chapter 13 on February 5, 2013. The second case was dismissed on July 8, 2013 because the debtors failed to obtain confirmation of an amended Chapter 13 plan within the time allowed by court order dated April 16, 2013. Based on these filings and dismissals, the automatic stay did not go into effect upon the filing of the instant case by operation of 11 U.S.C. § 362(c)(4)(A)(i).

The court will issue a minute order.

2.     [13-29606](#)-B-7     MARIA AVINA AND GUILLERMO     MOTION FOR RELIEF FROM  
          JHW-3            AVINA-SEGURA            AUTOMATIC STAY  
  8-21-13 [[25](#)]  
  
          TD AUTO FINANCE, LLC VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The debtors have had two bankruptcy cases pending and dismissed within the past year. The first case, case no. 12-39652, was filed under Chapter 13 on November 7, 2012. The first case was dismissed on January 9, 2013 for ineligibility (debtors received credit counseling two weeks after the date of the petition in violation of § 362(h)). The second case, case no. 13-21558, was filed under Chapter 13 on February 5, 2013. The second case was dismissed on July 8, 2013 because the debtors failed to obtain confirmation of an amended Chapter 13 plan within the time allowed by court order dated April 16, 2013. Based on these filings and dismissals, the automatic stay did not go into effect upon the filing of the instant case by operation of 11 U.S.C. § 362(c)(4)(A)(i).

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
9-11-13 [27]

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
9-4-13 [20]

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Because the debtor has filed a statement of intention to surrender the Property (as that term is defined herein), and the trustee has filed a report of no distribution, the court issues the following tentative ruling.

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and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtor has failed to make eleven (11) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The debtor has filed a statement of intention to surrender the Property. The trustee has filed a statement of non-opposition to the motion and a report of no distribution.

The court will issue a minute order.

5. [13-28253](#)-B-7 JUDITH TEICHMER MOTION FOR RELIEF FROM  
NMB-1 AUTOMATIC STAY AND/OR MOTION  
FOR ADEQUATE PROTECTION  
8-27-13 [[11](#)]
- OCWEN LOAN SERVICING, LLC  
VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part. The automatic stay is modified as to the debtor and the estate pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 424 Butler Street, Grass Valley, California (APN 29-080-41-000) ("Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtor has failed to make fifteen (15) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a statement of non-opposition to the motion and a report of no distribution.

The court will issue a minute order.

6. [10-30373](#)-B-13 MANOLITO/SHIRLEEN FUENTES MOTION FOR RELIEF FROM  
RSS-1 AUTOMATIC STAY  
9-11-13 [[112](#)]
- JP MORGAN CHASE BANK,  
NATIONAL ASSOCIATION VS.

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

The motion is continued to October 8, 2013, at 9:31 a.m.

This motion seeks relief from the automatic stay in a chapter 13 bankruptcy case. It was improperly set for hearing on this calendar, which is reserved for motions for relief from the automatic stay filed in chapters other than chapter 13. Accordingly, the motion is continued to the next calendar on which relief from stay motions filed in chapter 13 cases may be heard.

The court will issue a minute order.

7. [13-25477](#)-B-7      RIGOBERTO/MARIA TINOCO      MOTION FOR RELIEF FROM  
RCO-1      AUTOMATIC STAY  
8-30-13 [[28](#)]  
  
DEUTSCHE BANK NATIONAL TRUST  
COMPANY VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part and dismissed as moot in part. As to the debtors, the motion is dismissed as moot. The debtors received their discharges on August 27, 2013, and the automatic stay as to the debtors ended on that date. 11 U.S.C. § 362(c)(2)(C). As to the estate, the automatic stay is modified pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 3117 Second Street, Biggs, California (APN 001-023-016-000) ("Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make seventeen (17) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a report of no distribution.

The court will issue a minute order.

8. [13-29178](#)-B-7      RICK JACKSON      MOTION FOR RELIEF FROM  
PD-1      AUTOMATIC STAY  
8-22-13 [[13](#)]  
  
U.S. BANK, N.A. VS.

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

The motion is granted in part. The automatic stay is modified as to the debtor and the estate pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in

order to permit the movant to foreclose on the real property located at 24343 North Cherokee Lane, Acampo, California (APN 005-190-36) (the "Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The court awards no fees or costs. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtor has failed to make two (2) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a statement of non-opposition to the motion and a report of no distribution.

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

The court will issue a minute order.

9. [13-27382](#)-B-7 JON/KATHLEEN HENRICKSON MOTION FOR RELIEF FROM  
MBB-1 AUTOMATIC STAY  
8-21-13 [[15](#)]  
BANK OF AMERICA, N.A. VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part and dismissed as moot in part. As to the debtors, the motion is dismissed as moot. The debtors received their discharges on September 17, 2013, and the automatic stay as to the debtors ended on that date. 11 U.S.C. § 362(c)(2)(C). As to the estate, the automatic stay is modified pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 1203 Souza Drive, El Dorado Hills, California (APN 114-283-24-100) (the "Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make four (4) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a report of no distribution.

The court will issue a minute order.

10. [13-21096](#)-B-7 STEPHEN/DELIA INGERSOLL  
RCO-1

MOTION FOR RELIEF FROM  
AUTOMATIC STAY AND/OR MOTION  
FOR ADEQUATE PROTECTION  
8-27-13 [[35](#)]

THE GOLDEN 1 CREDIT UNION  
VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part and dismissed as moot in part. As to the debtors, the motion is dismissed as moot. The debtors received their discharges on May 13, 2013, and the automatic stay as to the debtors ended on that date. 11 U.S.C. § 362(c)(2)(C). As to the estate, the automatic stay is modified pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 4900 Golden Street, Pollock Pine, California (APN 042-311-13-100) ("Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make seven (7) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a statement of non-opposition to the motion.

The court will issue a minute order.